

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Shoni Johnson (and others similarly situated in
the San Antonio Valley),

Complainants,

vs.

Pacific Gas and Electric Company,

Defendant.

(U 39E)

(ECP)
Case 04-01-032
(Filed January 28, 2004)

**OPINION DENYING REQUEST TO CHANGE
BASELINE TERRITORY BOUNDARIES**

This decision denies the request of Shoni Johnson, et al. (Johnson) that Pacific Gas and Electric Company (PG&E) be required to re-zone the 279 resident community of San Antonio Valley (Valley) from Baseline Territory X to Territory S.¹ We deny Johnson's complaint since, among other things, it essentially would have us relitigate outcomes that we reached in our recent rulemaking on baseline allowances.

¹ These "territories" generally reflect climate zone characteristics of included locations, and these characteristics, in turn, are used in calculating utilities' baseline allowances for customers residing within the territories.

Procedural Summary

PG&E answered the complaint on February 18, 2004. PG&E also filed a motion to dismiss on March 5, 2004. Johnson replied on March 22, 2004. This matter was submitted for decision on the pleadings pursuant to a ruling of the assigned Administrative Law Judge issued August 17, 2004.

Positions of the Parties

Johnson claims that meteorological data supports rezoning Valley from Territory X to Territory S, which is adjacent to Valley. Johnson also seeks retroactive restitution of the billing difference between the charges for these two baseline territories from May 15, 2001, when the Commission assessed energy procurement surcharges based on 130% of baseline allowance and a five-tier rate structure (Decision (D.) 01-05-064).

Johnson acknowledges that a boundary line must be drawn somewhere, and that similar complaints could be argued by communities on the outskirts of those boundaries. Johnson argues, however, that boundaries should reflect appropriate weather patterns and natural obstacles, and not be drawn at convenient county lines. Johnson claims she does not request a separate climate zone but simply wants the current climate zone boundary adjusted to where the climate significantly changes. Johnson points out that Valley is east of a range of mountains that protects it from coastal fog (making it hotter in the summer than adjacent areas) and that Valley is at approximately 2,700 feet elevation (making it cooler in the winter than adjacent areas). Johnson also points out that the 30 years of data used by PG&E to support the existing boundaries contain no data from the Valley area.

Johnson did not participate in the recent “Baseline OIR” proceeding,² and thus did not present any request for a review specific to the Valley area. Johnson says that if she is not allowed to present her case under the Commission’s complaint procedure, then she should be allowed to address this matter in the Baseline OIR.

PG&E argues that Complainants’ community is in the appropriate climate zone based on the territory boundaries set by the Commission in PG&E’s tariffs, rates and rules, most notably Electric Preliminary Statement Part A. PG&E notes that the boundaries set in this area are matched by the California Energy Commission’s climate zones. Further, PG&E points out that the baseline program was never intended to supply baseline levels to accommodate the connected load of each residential parcel, but rather a significant portion of the reasonable needs of average households, as defined in Pub. Util. Code § 739. Also, PG&E opposes Complainants’ request on the grounds that it duplicates the recently concluded Baseline OIR.

Discussion

Johnson’s request should be denied in light of the recently concluded Baseline OIR. Johnson did not participate in that proceeding. We therefore considered (1) the appropriateness of baseline territory boundaries and baseline allowances currently authorized for the State’s regulated utility customers, and (2) the adverse financial impact of the energy procurement surcharges that were authorized by the Commission in D.01-05-064 and that were based on baseline

² Order Instituting Rulemaking on the Commission’s Own Motion to Determine Whether Baseline Allowances for Residential Usage of Gas and Electricity Should Be Revised. Rulemaking 01-05-047.

allowances. The proceeding was conducted with duly noticed public participation hearings and resulted, in Phase 1, in rate relief to Johnson and other PG&E customers effective May 1, 2002. This relief came in the form of an increase to most electric baseline allowances (D.02-04-026). In Phase 2, the Commission issued D.04-02-057 on February 26, 2004, stating:

“Upon review of the record regarding the utilities’ climate zones, and in light of the parties’ consensus that no climate zone modifications are needed at this time, we see no need to address baseline climate zones in this order (pp. 8-9). Therefore, we are not persuaded that the Baseline OIR should be reopened.”

We decline to selectively adjust baseline quantities for any one community, such as Valley, in a complaint case. Johnson’s arguments are not unique to Valley. The whole scheme of allocating baseline quantities is essentially a compromise as to where to draw baseline boundary lines. As acknowledged by Johnson, other communities on the outskirts of baseline boundaries could well make similar arguments for additional baseline quantities.

Also, the complaint raises many issues that would have to be addressed. For example, we do not know how the purported differences in Valley from the rest of the climate zone compare to regional variations that may affect other communities within the climate zone. Also, it must be recognized that the range of heating and cooling degree days in each baseline territory often overlaps ranges in other baseline territories, and several weather stations within a baseline territory often exhibit a significant deviation from the mean for that territory (as argued by Johnson). Consequently, there may be other communities near territory boundaries like Valley that may be slightly cooler or warmer than the territory average. This will intrinsically be the case no matter how the current

boundary lines are moved. Therefore, any adjustment to boundary lines should properly be made in a more global proceeding, not in the instant proceeding. Furthermore, the intent of the baseline quantities is defined in Pub. Util. Code § 739(a), which states in relevant part:

“The commission shall designate a baseline quantity of gas and electricity which is necessary to supply a significant portion of the reasonable needs of the **average** residential customer.” [Emphasis added.]

In short, Johnson’s request for immediate relief through a complaint proceeding should be denied.

Finally, we note that Johnson’s request is a ratemaking matter involving a reallocation of revenue requirements related to baseline allowances. Therefore, Johnson should wait for PG&E’s next general rate case proceeding to have this matter addressed. The complaint is denied and this proceeding is closed.

O R D E R

IT IS RULED that:

1. The Complaint of Shoni Johnson, et al. is denied.
2. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.